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U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Berkeley Electric Cooperative, Inc.

Serial No. 75/324,259

Richard M. Moose of Dority & Manning
for Berkeley Electric Cooperative, Inc.

Cynthia Sloan, Trademark Examining Attorney, Law Office 111
(Craig Taylor, Managing Attorney).

Before Simms, Wendel and McLeod, Administrative Trademark
Judges.

Opinion by Wendel, Administrative Trademark Judge:

Berkeley Electric Cooperative, Inc. has filed an
application to register the mark COOPERATIVE SERVICES for
"electric power distribution."¹

Registration has been finally refused on the ground
that the mark is merely descriptive under Section 2(e)(1)

¹ Serial No. 75/324,259, filed July 14, 1997, based on a bona
fide intention to use the mark in commerce.

of the Trademark Act. Applicant and the Examining Attorney have filed briefs, but an oral hearing was not requested.

The Examining Attorney maintains that the proposed mark COOPERATIVE SERVICES merely describes a feature of applicant's electric services, namely, that the services emanate from a cooperative type of business. As support, the Examining Attorney relies upon dictionary definitions of the term "cooperative," copies of three third-party registrations involving marks for electric services being offered by electric cooperative organizations in which the phrase "electric cooperative" has been disclaimed,² and eleven excerpts from the Nexis database in which references are made to "electric cooperatives," "electric-cooperative service territories," "electric cooperative service," "manager of cooperative services with Plains Electric Generation and Transmission Cooperative, Inc." and "electric cooperative service areas."

Applicant contends that its mark is not merely descriptive in that it is not "solely" descriptive of its services; that the third-party registrations in which disclaimers were entered used "cooperative" as a noun,

² A fourth registration containing a similar disclaimer is for the mark NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION issued to the National Rural Electric Cooperative Association Inc. for publications, educational services and other association services in the field of rural electrification.

whereas applicant's mark is not intended to use "cooperative" as a noun; and that applicant at most intends the term "cooperative" to be considered in the adjective sense, as suggestive of the responsiveness of applicant to customers. Applicant argues that, in view of the multiple and alternate dictionary definitions for the term "cooperative," the mark may equally infer alternative qualities, thus rendering the mark only suggestive. Applicant insists that the Examining Attorney has incorrectly considered the question of descriptiveness in the context of the nature of applicant's business entity, rather than in relation to applicant's services. In addition, applicant contends that only one of the Nexis excerpts made of record by the Examining Attorney shows use of the term "cooperative service," as opposed to more complex phrases, and thus these excerpts support applicant's position that "cooperative service" in itself is not merely descriptive.

A word or term is merely descriptive within the meaning of Section 2(e)(1) if it immediately conveys information about a characteristic, purpose, function or feature of the goods or services with which it is being used. In re Abcor Development Corp., 588 F.2d 811, 200 USPQ 215 (CCPA 1978). The fact that a word or term may have

more than one meaning is not controlling on the question of descriptiveness, since this question must be determined, not in the abstract, but in relation to the goods or services for which registration is sought, the context or purpose for which the word or term is being used on or in connection with the goods or services, and the reaction of the average consumers as a consequence of this manner of use. See *In re Champion International Corp.*, 183 USPQ 318 (TTAB 1974) and the cases cited therein.

The dictionary definitions considered by the Examining Attorney for the term "cooperative", as an adjective, include:

1. Done in cooperation with others: *a cooperative effort.*
2. Marked by willingness to cooperate; compliant: *a cooperative patient.*
3. Of, relating to, or formed as an enterprise or organization jointly owned or managed by those who use its facilities or services: *a cooperative department store.*

In determining whether the Examining Attorney has correctly relied upon the third definition as the most applicable of these meanings for the term "cooperative," as used in applicant's mark COOPERATIVE SERVICES, we look to the additional evidence made of record by the Examining Attorney. In the first place, we cannot ignore that applicant is an "electric cooperative" organization; its

very name apprises us of this fact. From the third-party registrations of record, we see that the term "electric cooperative" has been used by other electric cooperatives in marks for the same type of services, and has been acknowledged to be descriptive when so used. The Nexis excerpts show use of phrases such as "electric cooperative," "cooperative service area" or "cooperative service territory" in referring to businesses involved in electric power distribution.

Accordingly, we readily conclude that the most applicable meaning for the term "cooperative" when used in connection with applicant's electric distribution services is "relating to ...an enterprise or organization jointly owned or managed by those who use its facilities or services." We agree with the Examining Attorney that applicant's mark merely describes a feature of applicant's services; these are SERVICES which emanate from a COOPERATIVE business organization. Even though the word "electric" is not specifically set forth in applicant's mark, when applicant's services are taken into consideration, along with the evidence that distribution of electric power by electric cooperatives is a known business practice, the descriptiveness of COOPERATIVE SERVICES to

potential purchasers of applicant's electric services is clear.

Applicant's contention that the term "cooperative" would instead be interpreted as being suggestive of applicant's responsiveness to its customers' needs might be reasonable if electric power distribution were not a field in which cooperatives were known to provide such services, but this is not the case. Contrary to applicant's protestations, it is the nature of applicant's services themselves which have been determinative of the issue of descriptiveness, not simply applicant's business name. The fact that these services are in a field in which electric cooperatives are an established type of operation makes the descriptiveness of the mark COOPERATIVE SERVICES beyond doubt. Furthermore, the very existence of other electric cooperatives makes it obvious that applicant should not be permitted to deny these businesses the right to describe their services in the most applicable of terms, namely, as "cooperative services."

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Accordingly, the refusal to register under Section
2(e)(1) is affirmed.

R. L. Simms

H. R. Wendel

L. K. McLeod
Administrative Trademark Judges,
Trademark Trial and Appeal Board

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